

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 2687 OF 2004

Fakruddin @ Pappu Kasam Shaikh ..Applicant

versus

The State of Maharashtra ..Respondents

Mr. J. B. Kochta for the Applicant.

Mr. V. B. Konde-Deshmukh A.P.P. for the
Respondents.

CORAM : A.M. KHANWILKAR, J.

DATE : 20TH OCTOBER 2004.

P.C. :

1. Heard counsel for the parties. Perused the record. It is not in dispute that the only role attributed to the applicant is that he was making oral exhortation at the time of the incident. The learned APP fairly accepts that there is not even a single prosecution witness, who has stated that the applicant himself assaulted the victim. The fact that swords have been subsequently recovered at the instance of the applicant makes no difference to the above position. Counsel for the applicant has rightly relied upon the decision of the apex court in the case of **Dharmendra Chandulal Patel vs. State of Gujarat** reported in 2002 Cri.L.J. 943 that if

the only role attributed to the applicant is that he made oral exhortation and since he is in jail for more than one year he should be released on bail.

2. In the circumstances, the applicant deserves to be released on bail on the following conditions:

(a) The applicant is enlarged on bail in connection with C.R. No. 298 of 2003 registered with Yerawada Police Station, Pune, on executing personal bond in the sum of Rs.50,000/= (Rupees Fifty thousand only) with one or two local sureties in the like amount.

(b) The applicant shall not enter within the jurisdiction of Yerawad Police Station, Pune, during the pendency of the trial except with the permission of the trial court.

(c) The applicant shall inform his place of residence where he intends to reside after his release within one week from the date of his release to the Investigating Officer as well as to the Registrar of the trial court.

(d) The Applicant shall report to the nearest police station where he would reside

once in a fortnight on Saturday between 10 a.m. to 1 p.m.

(e) The applicant shall not influence the prosecutionn witnesses or tamper with the prosecution evidence in any manner whatsoever.

(f) The applicant shall extend full co-operation to the trial court for early disposal of the case. In the event the trial court is of the opinion that the applicant is responsible for the smooth progress of the trial, that fact be recorded in the roznama which can be a ground for cancellation of bail.

Application disposed of accordingly.

A.M. KHANWILKAR, J.